
(2015) 03 MAD CK 0069

In the Madras High Court

Case No : Writ Petition (MD) Nos. 10484 and 10485 of 2014

V. Ananda Raj and Others

APPELLANT

Vs

The Joint Director of Elementary Education and Others

RESPONDENT

Date of Decision : 24-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0069

Hon'ble Judges : K. Ravichandra Babu, J.

Bench : Single Bench

Advocate : B. Prahald Ravi for Hall Marck Associates, for the Appellant; J. Gunaseelan Muthiah, Govt. Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

K. Ravichandra Babu, J.—In both these writ petitions the respective petitioners are aggrieved against the order passed by the District Elementary Educational Officer, Madurai, rejecting the proposal sent for approving the appointment of the respective petitioners as Secondary Grade Teacher.

2. The only reason stated in the impugned orders to reject such request is that there are surplus posts available in other Schools which come under the same Management of the respective Schools wherein, the petitioners have been appointed.

3. Whether such could be a reason for rejecting the approval has already been considered by this Court and in one of the such decision in W.P. Nos.4246 and 16678 of 2004 dated 29.04.2008 wherein paragraphs 3 to 5, it is observed as follows:

"3. The learned Counsel for the petitioner submits that the petitioners' appointments are not approved on the ground that there are excess teachers available in the other schools established and administered by the very same third respondent Management and the same cannot be a ground to deny approval. Heard the Learned Counsel for respondents. Admittedly, the petitioners

are appointed in the third respondent school, which is a middle school and only two teachers post are sanctioned to the said school and the petitioners are appointed in one of the sanctioned post. Whether the approval of appointment can be rejected for a teacher appointed in a private aided school on the ground that in other schools of the very same Management excess teachers are working was considered by this Court in W.P. Nos.10350 to 10352 of 2006 and by judgment dated 08.12.2006, the said contention was negated, following the judgment of the Full Bench reported in Director of Elementary Education, District Elementary Educational Officer and Assistant Elementary Educational Officer Vs. Smt. S. Vigila and Manager, Meerania Middle School, . In para 23 of the Full Bench judgment reads as follows:-

"23. Keeping in view the various relevant aspects, we feel that G.O. Ms.No.525 dated 29.12.1997 should be interpreted in the following manner:-

(1) The ratio of students teacher strength as indicated in the G.O should be primarily considered by taking each individual standard/section as a unit.

(2) The minimum strength of teachers required obviously should not fall below the number of standards/section in a School. In other words, if there are five standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster.

(3) If the students" strength in a particular standard exceeds 60, at that stage, an additional section is required to be created requiring the section of a second teacher and the strength reaches 100, the post of a third teacher is required.

(4) Even after maintaining the aforesaid ratio by taking into account the students" strength of each individual standard and additional section, as the case may be, by keeping in view the teacher-students ratio 1:40 of the entire school if the teachers strength is required to be increased, the same has to be allowed, but in no case, the teachers" strength should be less than the number of standards including the additional sections. If more teachers are thus sanctioned keeping in view the over all strength of the School the authorities of the school should create additional section in respect of any particular standard according to the need and convenience keeping in view the standard of education. This requirement is not only in respect of Aided Schools or Government schools, but also in respect of any Private Recognized school. In other words, this ratio is to be maintained for any school which required recognition.

It would be obviously open to the Government to formulate appropriate norms in consonance with the above observation and provisions of the Constitution."

4. The said writ petition was allowed not only on the basis of following the Full Bench Judgment, but also on the basis of the decision made in W.P. No.4572 of 2006 dated 01.09.2006, wherein also this Court repelled such a stand taken by the respondents and ultimately the writ petition was allowed. Learned Counsel for the petitioner also submits that the said order passed by this Court on

08.12.2006 is implemented and no appeal has been filed. The Learned Counsel also cited similar orders passed by this Court in W.P. Nos.3026, 3027, 3028, 3029 and 3031 of 2004 by order dated 03.10.2007, by holding that excess teachers available in other schools cannot be a ground to deny approval of the appointment of teachers appointed in sanctioned posts.

5. Following the above judgment, these writ petitions are allowed with a direction to the District Elementary Educational Officer, Tuticorin, to approve the appointment of the petitioners from 01.12.2001 and 09.07.2001 respectively, on verification of the petitioners' qualifications and the eligibility of the third respondent Management to retain the post in which the petitioners are appointed. Necessary orders are directed to be passed within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs."

In fact, I considered similar view in W.P(MD)No.16841 of 2014 dated 05.02.2015, by following the other decisions wherein similar contentions of the respondents were rejected.

4. Following the above said decision, the impugned orders in both the writ petitions are set aside and the matter is remitted back to to the second respondent and to pass appropriate orders on the proposal sent by the respective Schools seeking for approval of the appointment of the petitioners. Such exercise shall be done by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

5. Accordingly, these writ petitions are disposed of. No costs.